

**ORIGINAL**

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Volume: I

Pages: 1-304

UNITED STATES DISTRICT COURT

EASTERN DIVISION

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HELEN RUNGE,

Civil Action

Plaintiff,

No. 05-10849-RGS

WALTER J. KELLY,  
KERRY L. BLOOMINGDALE, M.D, and  
SUNBRIDGE NURSING AND  
REHABILITATION CENTER,

Defendants.

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DEPOSITION OF WALTER J. KELLY

Friday, December 1, 2006, 9:26 a.m.

Blake J. Godbout & Associates

33 Broad Street - 11th Floor

Boston, Massachusetts 02109

----- Reporter: Toni F. Beckwith, RMR -----

Toni F. Beckwith, Registered Merit Reporter  
50 Winsor Avenue  
Watertown, Massachusetts 02472  
Tel: 617.924.2731  
Fax: 617.924.9899

1           A. The police already knew about it. So  
2           if it was a question of notifying the police,  
3           the police already knew about it because they  
4           were there at the Sunbridge Nursing Home.

5           MR. ROCKAS: I'm going to try to make  
6           my call.

7           (Pause)

8           (Exhibit 19 marked

9           for identification)

10          Q. Mr. Kelly, a document has been placed  
11          in front of you marked Kelly 19 dated May 12,  
12          2003, a letter authored by a Robert M. Palmer,  
13          M.D. Have you seen that letter prior to today?

14          A. Yes.

15          Q. Do you recall when you first saw that  
16          letter?

17          A. Around the end of July of '03.

18          Q. What did you understand from that  
19          letter?

20          A. I understood that Helen was in --  
21          Helen was with her daughter in Columbus. I  
22          understood that I was never going to get an  
23          independent evaluation of Helen. I understood  
24          that my ethical duties under the professional

1       conduct rules could not be fulfilled any  
2       further, and I had taken all reasonable steps to  
3       do what I needed to for Helen. And I knew I  
4       wasn't going to be successful to get an  
5       independent evaluation of her.

6               Q. And why were you required to get an  
7       independent evaluation of her, Mr. Kelly?

8               A. Based upon the abduction, I couldn't  
9       trust the Stanleys were looking out for her best  
10      interest.

11              Q. And you made that determination when,  
12      that you couldn't get an independent evaluation?

13              A. In my discussions with Tom Schiavoni.

14              Q. And when were those discussions taking  
15      place?

16              A. At the end of July.

17              Q. And that's of 2003?

18              A. That's correct.

19              Q. And did you understand that this  
20      letter from Dr. Palmer wasn't an independent  
21      evaluation?

22              A. I don't know who Dr. Palmer is. I  
23      know nothing about Tryon Medical Group. I don't  
24      know that it's an independent -- it's not a

1 friend of Dorothy Stanley's through the hospital  
2 that she works at in order to assist her in  
3 having me stop going forward any further.

4 Q. Did you ever contact Dr. Palmer to  
5 explore any questions or concerns you had with  
6 regard to his May 12, 2003 letter?

7 A. No.

8 Q. You indicated that you couldn't  
9 fulfill your ethical duty. What ethical duty  
10 are you referring to?

11 A. It was rules of professional conduct,  
12 1.14.

13 Q. And interpret that to this  
14 information.

15 A. If you have an elderly client that you  
16 are in fear that they're being abused mentally,  
17 physically or financially, you have a duty to  
18 continue to represent them.

19 Q. And just so I'm clear, Attorney Kelly,  
20 in your opinion, your ethical obligation under  
21 1.14, did that arise from the court appointing  
22 you as a guardian?

23 A. No.

24 Q. It arose as a result of the

1 attorney-client relationship that you had with  
2 Helen Runge?

3 A. That's correct.

4 Q. And that's the same relationship that  
5 she, in essence, terminated you from on April  
6 29?

7 A. At a time when there was a medical  
8 certificate saying that she wasn't competent to  
9 make decisions for herself.

10 Q. Okay. When I was asking you about the  
11 police reports that were attached to Kelly 18, I  
12 think I asked you if you had filed that police  
13 report, and you indicated no.

14 A. Filed what police report?

15 Q. There appears to be some type of a  
16 narrative on the back of --

17 A. I believe that came from the nursing  
18 home, but I'm not sure.

19 Q. It says, Notified State Police,  
20 notified staff, attempted. So apparently the  
21 State Police were notified?

22 A. Yes.

23 Q. And am I correct in understanding your  
24 testimony that you didn't notify the police?

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UNITED STATES DISTRICT COURT

EASTERN DIVISION

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HELEN RUNGE, Civil Action

Plaintiff, No. 05-10849-RGS

WALTER J. KELLY,  
KERRY L. BLOOMINGDALE, M.D., and  
SUNBRIDGE NURSING AND  
REHABILITATION CENTER,

Defendants.

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CONTINUED DEPOSITION OF WALTER J. KELLY

Thursday, December 14, 2006, 1:13 p.m.

Blake J. Godbout & Associates

33 Broad Street - 11th Floor

Boston, Massachusetts 02109

----- Reporter: Toni F. Beckwith, RMR -----

Toni F. Beckwith, Registered Merit Reporter  
50 Winsor Avenue  
Watertown, Massachusetts 02472  
Tel: 617.924.2731  
Fax: 617.924.9899

1 Q. Did you contact anyone with regard to  
2 their attempt to become the representatives of  
3 Helen Runge?

4 MR. ROCKAS: Objection.

5 A. I contacted her bank accounts, banks.

6 Q. Banks?

7 A. Yes.

8 Q. When did you contact them?

9 A. The 30th. I think the 30th or the  
10 1st. I'm not sure.

11 Q. Why did you contact the banks?

12 A. Well, again, Rules of Professional  
13 Conduct 1.4 says if you feel that you have a  
14 client who's being taken advantage of mentally,  
15 physically, psychologically, an elderly client  
16 like Helen, or financially, you have a duty to  
17 continue to represent them, to protect them.

18 Q. So you contacted the banks on either  
19 the 30th or the 1st?

20 A. I don't remember the exact date.

21 Q. Did you go out and see Helen on the  
22 29th, 30th or 1st?

23 MR. ROCKAS: Objection.

24 A. I did not go to see Helen on the 29th,

1 no. I expected a meeting on the 1st with the  
2 family.

3 Q. Did you go to the facility on the 30th  
4 to see Helen?

5 A. No. I had gone on the 25th to see  
6 Helen.

7 Q. Had Dorothy Stanley or Gilbert Stanley  
8 ever told you that they intended to take Helen's  
9 money out of bank accounts?

10 A. No.

11 (Exhibit 32 marked  
12 for identification)

13 Q. I placed in front of you a deposition  
14 Exhibit 32. It's a three-page exhibit.  
15 Mr. Kelly, have you seen those documents prior  
16 to today?

17 A. Yes.

18 Q. Are you the author of those three  
19 letters?

20 A. I am.

21 Q. Am I correct in understanding that the  
22 first page marked WK 0864 was a letter from you  
23 to a treasurer Stephen McNulty of the Hyde Park  
24 Savings Bank?



1 Bank you indicated?

2 A. That's correct.

3 Q. Was that in a client fund of yours?

4 A. That's correct.

5 Q. What did you do with the 25,000 bucks?

6 A. Well, I believe I paid Tom

7 Schiavoni -- well, if you look on my accounting  
8 filed with the court, you can see where I spent  
9 it.

10 Q. You paid Tom Schiavoni for what?

11 A. For representing me regarding the  
12 guardianship.

13 Q. To get yourself appointed?

14 A. That's correct.

15 Q. You paid Tom Schiavoni out of Helen  
16 Runge's funds?

17 A. That's correct.

18 Q. You didn't pay him out of your own  
19 funds?

20 A. No.

21 Q. Did Helen Runge consent to  
22 Mr. Schiavoni representing you on her behalf?

23 A. Again, I'm saying that it's under  
24 Professional Conduct Rules 1.14.

1 MR. ROCKAS: Just answer the question.

2 A. No.

3 Q. Did Tom Schiavoni send an engagement  
4 letter to Helen Runge?

5 A. No.

6 Q. Was Helen Runge ever made aware that  
7 Tom Schiavoni was providing legal services for  
8 which she was about to be billed?

9 A. No, not that I know of.

10 Q. The fees for which Tom Schiavoni was  
11 paid was for the preparation of a petition for  
12 your appointment?

13 A. And going over all the facts and the  
14 information on Helen with me, going over  
15 affidavits and the various.

16 Q. Was Tom Schiavoni ever engaged to  
17 represent Helen specifically during this  
18 proceeding?

19 A. No.

20 Q. Other than Tom Schiavoni's fees being  
21 paid, where did the remainder of the 25,000  
22 bucks go on May 20, 2003?

23 A. Well, that's the deposit. You have a  
24 copy of the accounting, and it tells you where